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ABSTRACT

This report to the United Nations Committee on the Rights of the Child contains observations of the World Organisation Against Torture (OMCT) concerning the application of the Convention on the Rights of the Child by Algeria. The report's introduction asserts that although OMCT welcomes legislative and institutional efforts made by Algeria since 1992 to carry out its obligations under the Convention, many efforts thus far are insufficient or contradictory. The report then contains observations and recommendations in the following areas: (1) definition of the child; (2) penal responsibility of the child; (3) the right to be heard in any procedure; (4) competent jurisdiction; (5) sanctions applied to children; (6) death penalty and life imprisonment; (7) definition and prohibition of torture; (8) protection during police custody; (9) medical examination during police custody; (10) sanctions in case of arbitrary arrest or detention; (11) validity of confessions obtained under torture; (12) prosecution of those responsible for torture; (13) sanctions for those who torture children; (14) sanctions of other offenses against children; (15) discrimination regarding children; and (16) minorities or native groups. Following its own conclusions, the report includes a summary of observations and recommendations by the U.N. Committee on the Rights of the Child--Algeria, in the following areas: positive factors, factors and difficulties impeding the implementation of the convention, principal subjects of concern, and suggestions and recommendations. (EV)

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The world organisation against torture (OMCT)
operating the SOS-TORTURE NETWORK

OMCT is currently the largest international coalition of NGOs fighting against torture, summary executions, disappearances and all other types of cruel, inhuman or degrading treatment. It co-ordinates the SOS-Torture network that is made up of around 200 non-governmental organisations which act as information sources. On a daily basis, its urgent appeals reach more than 90,000 governmental institutions, non-governmental institutions, associations and pressure and interest groups. This urgent information is dispatched, in the name of the information source, using the fastest and most appropriate means possible.

OMCT's has five main projects.

Apart from the urgent appeals, OMCT has established an **emergency assistance fund** to provide essential medical, legal or social assistance to victims in their respective countries.

Since 1992, OMCT has run a project to protect **children** from torture, summary executions, disappearances and all other types of cruel, inhuman or degrading treatment. Particular emphasis has been placed on prevention, on collaboration with the United Nations Committee for the Rights of the Child and UNICEF.

As is demonstrated by thousands of cases we deal with every year, violence towards **women** is a specific issue requiring specific strategies, because of the particular position of women in society. This is particularly so within systems which do not recognise women's rights as being equal to those of men. The Women's Programme aims to document the scale of gender-specific violence and to develop appropriate strategies to raise awareness and put an end to it.

Numerous regimes, particularly the most repressive, harass and undermine the work of **Human Rights Defenders** who may be lawyers or represent non-governmental organisations, trade unions, etc. Actions are taken to make investigations difficult and try to restrict the information that they have compiled. To defend their rights, the **World Organisation Against Torture** set up a programme to assist **Human Rights Defenders** and, at the start of 1997, it decided to establish a joint programme with the **International Federation of Human Rights.** Out of this partnership came the **International Observatory for Human Rights Defenders**. The Observatory is open to NGOs wishing to collaborate and it has already dealt with a numerous cases.

Geneva, February 1998

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Rights of the Child in Algeria

OMC

OPERATING THE SOS-TORTURE NETWORK

The aim of the country reports of OMCT are too prevent torture

In its reports on children's rights, OMCT aims to analyse national law in terms of the international commitments that a government has made - for example, in some countries families are not informed when their child is detained and this situation removes a precious safeguard against abuse. The absence of such safeguards facilitate situations where the torture of children can and does occur.

In other words, the reports aim to point out where, often unknowingly, legislation facilitates grave abuses of children.

The legal analysis is supported, where possible, by urgent appeals on the torture of children documented by OMCT. These urgent appeals (OMCT intervenes almost daily on such cases) are the foundations of all our work.

The reports are not legal semantics for their own sake, but represent, in addition to the urgent actions, another side of our strategy to end torture. The reports include meaningful and realisable recommendations for legal reform aimed at reducing the incidence of child torture in the country in question.

The reports are presented to the United Nations Committee on the Rights of the Child who use them to analyse how well a country is undertaking its international commitments with regards to children. Their recommendations on the issue of torture, drawing from OMCT's reports, send a strong message from the international community on the need for action to end the torture of children in the country in question.

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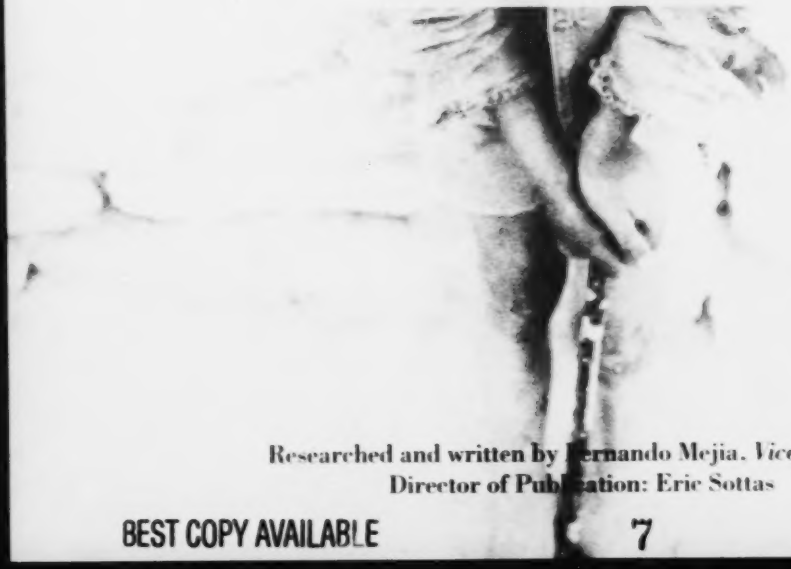
COMMITTEE [illegible] THE CHILD
15th Session – Geneva May [illegible] June 1997

Implementation of the Convention on the Rights of the Child by the Algerian Republic



Researched and written by Fernando Mejia, *Vice Director*
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The mandate of OMCT being
"the struggle against torture,
summary execution,
forced disappearance
and other cruel, inhuman
or degarding treatments"
this report concerns fundamentally
question relating to implementation of art.
12, 19, 25, 37, 39 a nd 40 of the Convention.

8

The year 1997 saw the first legislative and local elections since 1992 in Algeria, but it was marked by ever bloodier acts of violence for Algeria. As in other years, the civilian population has borne the brunt of the violence, caught in an ever deteriorating cycle of violence. The consequences of the conflict have led to estimates of up to 80 000 dead. And, as with other conflicts, it is children who have suffered the most.

As the outrages get ever more bloody, the government has adopted a policy of denial of any human rights violations. Everything is attributed to acts of terrorism committed by armed fundamentalist Islamic groups, backed by «agents of a foreign power». Hoisting the flag of the big bad foreign wolf for the benefit of the international community, the authorities have attempted to wash their hands of any blame. Meanwhile, other voices consistently point to violations by the armed forces. In the context, and with civil society cowed, it is very hard to establish the responsibility and the identity of the authors of these crimes.

However, there is no doubt that the Algerian security forces have been responsible for acts of summary executions or forced disappearances. Most of the victims, including minors, are suspected of belonging to the fundamentalist movement or sympathising with it: in 1996, Boumidienne Ould-Sa'adi, 16 years old, was executed extrajudicially. His family was not informed of his death and found his bullet-ridden body in the morgue. Not one member of the security forces has been punished for perpetrating such acts.

While Algeria has ratified the United Nations Convention on the Rights of the Child, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and other international instruments protecting human rights, its domestic legislation contradicts their provisions. These problems are compounded by the failure of the authorities to respect even the insufficient protection offered by their own legislation: the country is constantly under a state of emergency which grants the state exceptional and overriding powers.

People, including minors, are detained incommunicado longer than the 12 days allowed by the Penal Code; their families are not informed of their whereabouts (as stipulated by the law). And regularly, the police make arrests without warrant. This is not legal semantics for its own sake: these conditions have facilitated a situation where

torture and other cruel, inhuman or degrading treatment are an all too common practice.

All Algerian citizens are vulnerable to these abuses, but children, as always, are particularly vulnerable. Tens of thousands of children have been affected by the conflict: hundreds have been assassinated and thousands traumatised by witnessing the violent deaths of their relatives, their family and neighbours.

In response to the human rights crisis in Algeria, International NGOs have mobilised campaigns in an attempt to stop further deterioration. The World Organisation Against Torture (OMCT) for its part, formally requested an extraordinary session to the United Nations Human Rights Commission. This session would have been based on the model of sessions invoked for the ex-Yugoslavia and Rwanda. A clear lack of political will has meant that, up to the date of publication, this session has yet to take place.

In addition, The World Organisation Against Torture (OMCT) drew attention to the problem at the different committees of international conventions and to reports and debates devoted to Algeria. This alternative report is part of OMCT's Children's Programme that strives to defend and to promote the fundamental rights of children.

The report demonstrates the discrepancies between Algerian legislation and the Convention of the Rights of the Child and how this facilitates grave abuses of children in Algeria. The legislation clearly falls short of its obligations toward the Convention and provides too many opportunities for abuse. The report includes recommendations for legislative reform to better protect children's rights in Algeria, including to:

- adopt measures to prevent all forms of abuse against children, including acts like torture, arbitrary or illegal arrest and detention;
- implement appropriate measures for assistance and rehabilitation of children victims of violence;
- ensure that no child be sentenced to life imprisonment and abolish the death penalty;
- review the age of criminal responsibility to bring it into conformity with the provisions of the Convention of the Rights of the Child;

- ensure that all children have access to full procedural rights;
- ensure that children are deprived of their liberty as a measure of last resort;
- ensure that those responsible for acts of torture receive a sentence that takes into account the gravity of the offence. The punishments applied should equally be such as to discourage those practices.

The last part of the report includes the conclusions of the United Nations Committee on the Rights of the Child with regard to Algeria. Their recommendations, drawing partly from OMCT's report, send a strong message from the international community with regard to children in Algeria, including: the need to end the death penalty, the need to strengthen children's enjoyment of procedural rights, the need to offer better protection against torture and other cruel, inhuman or degrading treatment for children. And finally that children deprived of their liberty should be held with regard to their status as children and to ensure that they are separated from adults.

Children in Algeria should be protected.

Preliminary Observations

1. Algeria ratified the Convention on the Rights of the Child on December 19th 1992 and the Convention came into force on May 16th 1993.

2. Algeria is also party to other international instruments relating to human rights condemning the practice of torture, in particular the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

3. OMCT welcomes legislative and institutional efforts made by Algeria since 1992 in order to carry out its obligations under the Convention on the Rights of the Child (mentioned above as the Convention).

4. However it notes that certain legislative and administrative measures, which are apparently in accordance with the Convention, are insufficient or represent an obstacle to effective protection of the rights of the child, as provided in the Convention.

5. Moreover, various laws in force appear to contradict the aims of the Convention and other international instruments ratified by Algeria.

6. OMCT regrets that the authorities have omitted information of particular importance in their report[1], especially the effects of the legislation providing exceptions to the rights of the child, the consequences of violence and terrorism, the protection of children against torture, the right of appeal granted to children victims of torture, the means available to ensure their rehabilitation, the penalties applied to officials or agents of the State responsible for grave violations perpetrated against children, etc.

1 - The original version of the Algerian report is in french

Definition of the child

7. Algerian legislation does not provide for a single definition of the age of a child. Indeed, according to the report [CRC/C/28/add. 4 paragraph 7], the definition could "*be deduced from various provisions*"[2] in the matter of civil, penal or labour law, teaching, family, etc.
However, though those various provisions are not strictly contrary to the Convention, their application leads inevitably to discrimination against children in certain fields and to a lack of appropriate protection for all children. This is demonstrated by the following examples:

7.1. According to legislation in force, indecent exposure in front of a minor below the age of 16 is punished by imprisonment from 5 to 10 years. The same penalty is applied against an ascendant guilty of indecent exposure in front of the minor, even if he has reached the age of 16 but is not yet emancipated by marriage [CRC/C/28/Add. 4 paragraph172].

7.2. The rape of a minor below the age of 16 is punishable by imprisonment of 10 to 20 years [CRC/C/28/Add. 4 paragraph 173]. A person guilty of the same crime against a minor aged between 16 and 18 faces 5 to 10 years of prison.

7.3. The Penal Code sets (penal) majority at 18 years. However, according to the Penal Procedure Code [art. 444], a minor over the age of 13 may be placed in a public institution for supervised and correctional education until the age of 21 at the most. Moreover, according to the report [CRC/C/28/Add.4 paragraph 10], a child offender aged 13 and over, may be subject to a more lenient sentence.

It should also be pointed out that [article 87 bis of Order 95-11 of February 25th 1995] people between the ages of 16 and 18 are liable to the death penalty and life imprisonment.

These provisions demonstrate that the age of penal responsibility, though attenuated, is actually below 18 years, but moreover, according to the penal law, children between 16 and 18 are considered fully responsible. In addition, according to the same law, children can be placed in detention with adults.

2 - Pourrait être dégagée de diverses dispositions [rapport CRC/C/28/add.4 § 7]

7.4. While according to the Civil Code, minors under the age of 16 are considered to be lacking in judgement [art. 43], the Penal Procedure Code [art.444] states that minors below the age of 18 cannot be subjected to measures other than those of protection and re-education. However, minors above the age of 13 may be placed in a public institution for supervised and corrective education until an age not exceeding 21 years. Moreover, according to the report [CRC/C/28/Add. 4 paragraph 10], when an offence is committed, they may receive a more lenient sentence.

OMCT notes that children aged 13 and over may be held legally responsible and that moreover, they can be placed or detained with persons above the age of 18, in other words, with adults.

7.5. The Civil Code categorizes minors of 19 years as persons juridically incapacitated (art.42). At the same time, it recognises the capacity of minors of 16 and over (art. 43) to understand their crimes. However, according to article 93-2 of the Penal Procedure Code, minors aged 16 may be heard in a court of law but only for information and their evidence is not heard under oath.

Moreover, according to those provisions, the right of the child to be heard in any case concerning him or her (as provided in art. 12 of the Convention to ensure that the child's opinion is considered) is not fully guaranteed due to validity recognised in such declaration.

This situation is all the more worrying for children below the age of 16, who are the victims of abuse, or children who have committed an offence.

7.6. Whilst the Penal Code [art.50] states that the death penalty cannot be imposed upon a minor of 18, Order No. 95-11, art. 87 bis.1 (containing exceptional measures) provides that such a penalty may be imposed upon minors aged between 16 and 18.

Those examples demonstrate that Algerian legislation does not protect all children equally, that it contains unacceptable discrimination against certain children in reason of their age, their civil status etc., and that in addition, if they come into conflict with the law, their protection is insufficiently guaranteed.

Recommendations :

The Committee should urge the authorities to ensure that the definition of the child conforms to the one provided in article 1 of the Convention.

It should request that the legislation be brought into line with the Convention in order to ensure an effective protection of persons below the age of 18 and to eliminate all forms of discrimination against those persons.

Penal responsibility of the child

8. The report [CRC/C/28/Add.4 paragraph 7b], indicates, according to art. 442 of the Penal Procedure Code, that penal majority is reached at the age of 18 and over.

However, the report fails to mention the existence of diminished penal responsibility or consequences of special measures concerning special offences, in particular acts of terrorism or subversion.

9. OMCT notes, after examination of Algerian legislation, that with art. 50 of the Penal Code, children aged 13 may be held penally responsible even in a case of diminished responsibility.

Article 87 bis of Order 95-11 of February 25th 1995 amending the Penal Code, (relating to offences qualified as acts of terrorism or subversion) provides that persons aged between 16 and 18 years are liable to be given the death penalty or life imprisonment.

Those provisions suggest, among others, that the age limit for penal responsibility is in fact below the age of 18 and that in the eyes of the law, minors aged between 16 and 18 years are considered fully responsible.

OMCT would also underline that whilst limited, the age of penal responsibility as set by article 50 of the Penal Code fails to take account of the child's capacity to understand the crime he or her is accused of having committed. According to article 43 of the Civil Code, this capacity is recognised only in the case of children having reached 16 years [CRC/C/28/add. 4 paragraph 18].

10. It should be noted that, according to article 8 of Order 95-12 of February 25th 1995 (containing provisions for clemency) minors aged between 16 and 18 years, guilty of offences like acts of subversion or terrorism, are liable to a maximum penalty of 10 years' imprisonment.

However, this provision affects only persons who *"have spontaneously surrendered to the competent authorities and advised them of the fact that they renounce to all terrorist or subversive activity"*[3] [Order 95-12,article 1].

The right to be heard in any procedure

11. While the report notes that children are able to fully exercise their procedural rights, in particular the possibility of appeal against a juridical decision, OMCT notes that certain provisions represent a potential obstacle to the exercise of such rights.

Indeed, Algeria's Civil Code places minors of 19 years of age in the category of legally incapacitated persons. Article 42 of the same code provides that minors under 16, below the age capacity to understand the crime they are accused of having committed, aren't authorised to exercise their civil rights. Moreover, article 43 adds to the list *"persons who have reached the age of judgement"*[4], i.e. minors aged between 16 and 19. In other words, all minors are deprived of their civil capacity.

12. Those civil provisions have serious consequences in penal matters since article 93-2 of the Penal Procedure Code authorises minors aged 16 to be heard in court, but only for information and without taking the oath. It is presumed that this is in the higher interest of the child.

Although this rule does not contradict the right of the child to be heard in a trial which relates to him, it is obvious that declarations which have no legal value may constitute a grave restriction of his/her rights.

3 - *Rendues spontanement aux autorités habilitées et les auront avisées qu'elles cessent toute activité terroriste ou subversive [Ordonnance 95-12, article 1]*

4 - *Âge de discernement [Code Civil, article 43]*

It should be noted that, according to the report [CRC/C/28/Add.4 paragraph 10], where an offence is committed, minors above the age of 13 may be subjected to a lenient sentence .
Consequently, this leads to the concern that the right to be heard in a court of law may be gravely jeopardised in the case of a child, below the age of 16, breaking the criminal law. The same applies to children below the age of 16 who are victims of abuse.

Competent jurisdiction

13. OMCT notes with satisfaction that, according to the legislative decree N° 92-03 of September 30th 119912 (relating to the struggle against terrorism and subversion) the "Special Courts" have been abolished.

14. It welcomes the fact that the Algerian judicial system provides a special section for young delinquents headed by a judge for minors and that, in addition, according to the Penal Code, the interests of the child are taken into account by ensuring the private nature of the proceedings and its conclusions [art. 461 to 493].

However, OMCT remains concerned about de facto respect and application of such guarantees, particularly in cases of children suspected or accused of an offence of the criminal law during a state of emergency.

Sanctions applied to children

15. According to the legislation in force, minors below the age of 13 enjoy measures of protection and rehabilitation. This equally applies to children above the age of 13.

However, the report [CRC/C/28/Add. 4] does not identify the specialised institutions, their number, organisation and operation, nor what makes them different from penal establishments, to say nothing

of the number of minors placed in such institutions and the reasons for their internment.

Indeed, according to various sources of information, minors in moral danger are placed in specialised centres for delinquent minors, which are supposed to hold only young persons who have received a custodial sentence.

The problem appears to be that, from a procedural point of view, the distinction between an accused and a convicted minor is not clear so that the internment of a minor in a centre may occur before the final sentence is pronounced.

16. According to the report, measures aimed at the re-education of minors can only be ordered for a limited period and are valid until the minor concerned reaches civil majority, i.e. 19 years [article 402 of the Civil Code].

However, OMCT notes that, according to Order No. 72-03 (1972) (on the protection of children and adolescents) and No. 75-64 (1975) (on the creation of institutions and services responsible for the safeguard of children and adolescents), if a child is considered dangerous, the minors' section can keep him/her in detention until a specified age which cannot exceed 21 years.

17. Moreover, the orders mentioned above deal respectively with minors who have not yet broken the law but whose health, safety, morality and education are in jeopardy or whose living conditions or behaviour may endanger their future or reintegration into society.

However, those provisions do not deal with delinquents but, as stated in the report, with "*young persons in moral danger*"[5], minors in a state of pre-delinquency.

Moreover, a further concern is that the minors' judge appears to be the only one competent to determine whether a child is in danger or not and to decide, on his/her own, of his/her status, while the available ways of appeal in such cases are doubtful.

18. According to the legislation in force, a minor of 13 years may only be subjected to measures of protection or re-education. Moreover, in the case of minors between ages of 13 and 18, they may, in the case of an offence, receive a lenient penalty.

5 - jeunes gens en danger moral [rapport CRC/C/28/ Add.4]

It should be noted that, as far as measures applied to children are concerned, legislation in force provides for internment in a public institution for supervised and corrective education until the maximum age of 21 years.

This raises a concern that in certain cases, the duration of the detention in an institution may be heavier sanction than the one applied to a similar offence committed by an adult.

19. OMCT notes with grave concern that the report [CRC/C/28/Add. 4] makes no reference to sanctions applied to children guilty of certain offences.

In this connection, it should be underlined, for instance, that the laws in force for drug use provide penalties from 2 to 10 years' imprisonment.

However, the report in question does not specify these sanctions, (which are most probably meant for adults) in the case of use or sale of narcotics, whether minors are liable to the same penalties or they incur a lesser penalty or solely measures of protection or of re-adaptation, or both.

20. It should also be noted that the report [CRC/C/28/Add.4 paragraph 84] mentions measures of re-education for "*young girls found guilty of prostitution*"[6].

However the report does not contain any indication as to sanctions applied in such a case, nor the length of the sentence.

21. OMCT notes that, according to paragraph 127 of the report, measures of protection or re-education for minors, below the age of 13, are entered in a police record No. 2 and after five years "*from the day upon which the measure of protection or re-education ended*"[7] the minors' section may decide to delete bulletin No. 1 carrying mention of the measure concerned.

The report does not mention if entry in file No. 2 is effectively deleted.

Moreover, there is no indication of what are the means for the victim, his/her family or representative to appeal against maintenance of the inscription after the end of the measure concerned or the end of the 5 years' period following the date of end of the measure.

6 - jeunes filles condamnées pour prostitution [rapport CRC/C/28/Add.4 § 84]

7 - jour où la mesure de protection ou de rééducation a pris fin [rapport CRC/C/28/Add.4 § 127]

Death penalty and Life imprisonment

22. OMCT deplores the fact that Algeria has not yet abolished the death penalty and that, moreover, contrary to what authorities state in paragraph 129 of the report [CRC/C/28/Add.4], the death penalty and life imprisonment may be imposed upon minors aged between 16 and 18 years.

Indeed, the application of these penalties to persons aged between 16 and 18 is provided in article 87 bis 1 of Order No. 95-11 [annex 1 herewith].

This order concerns offences related to acts of terrorism or subversion, a definition which, in accordance with article 87 bis, makes it possible to consider occupation of a school or college by pupils, obstruction of traffic or of freedom of movement during a demonstration etc. as offences of a terrorist or subversive nature.

23. It should also be noted that, according to the report, while the law provides for the substitution of the death penalty or life imprisonment for a limited term of imprisonment, this rule apparently does not apply to all cases.

Indeed, Order No. 95-12, article 8 [annex 2 herewith] provides for the substitution of the death penalty or life imprisonment for a limited term of imprisonment (10 years), if the accused is aged between 16 and 18 years.

However this possibility is granted only in very specific cases. It is applicable only if the accused "*surrendered spontaneously to the competent authorities and informed them that they abandoned every type of terrorist or subversive activity*"[3] [Order No. 95-12, Article 1.]

24. OMCT can only conclude that given the above-mentioned laws, minors aged between 16 and 18 may, under certain circumstances, be condemned to death or to life imprisonment.

Even admitting that, as was stated in the report [CAT/C/25/Add. 8], the death penalty has been seldom applied, if at all since 1993, OMCT expresses its firm belief that the mere threat of that sentence or life imprisonment is in itself a source of serious psychological suffering for the child and must consequently be regarded

3 - *Se sont rendues spontanément aux autorités habilitées et les auront avisées qu'elles cessent toute activité terroriste ou subversive [Ordonnance 95-12, article 1]*

as a form of torture or cruel or inhuman treatment.

Recommendations :

The Committee should urge the Algerian authorities to abolish the death penalty as soon as possible.

It should also urge the authorities to prohibit clearly and unequivocally the possibility of applying the death penalty or life imprisonment to any person below the age of 18.

Definition and prohibition of torture

25. According to the report [CRC/C/28/Add.4 paragraph 30, 78 and 79], the Constitution implicitly forbids torture and the Penal Code provides for the repression of an act of torture or other form of ill-treatment as well as any kind of moral violence.

26. OMCT notes with concern that the legislation in force contains no complete definition of torture.

Moreover, an examination of information supplied by the authorities reveals that there is ineffective protection for children against torture and other cruel, inhuman or degrading forms of treatment. This situation is all the more disturbing since judicial appeals appear to be imperfect and in addition, declarations of children below the age of 16, victims of such offences, are recognised only for information purpose.

Recommendations:

The Committee should remind the authorities of the recommendations of the Committee Against Torture, so they may adopt a complete definition of torture, as soon as possible.

It should insist that the status of the child and his/her best interests are considered in the definition of torture and particularly in the severity of sanctions applied to those responsible, the prevention of torture and the rehabilitation of victims.

Protection during police custody

27. According to the Constitution, police custody is limited to 48 hours and detained people have the right to contact their family immediately [CRC/C/28/add. 4 paragraph 57].

In this connection, given that the fate or integrity of detained persons depends mainly on the first few hours of their detention, OMCT fears, in cases of detention of children, that a delay of 48 hours may be excessive.

28. This situation is even more disturbing when an examination is made of the possibilities of extending police custody, referred to in paragraph 57 of the report which makes no mention of the length of such an extension, the number of extensions allowed nor the authority equipped to deal with the matter.

It should be pointed out that, according to article 51 of the Penal Procedure Code, as amended by Order 95-10 of February 25th 1995, police custody may be extended for a duration not exceeding 12 days in the case of crimes like acts of terrorism or subversion.

29. On the other hand, though the above-mentioned provision refers to very definite cases, various sources of information suggest that the duration of 12 days is systematically exceeded and in some cases, even exceeds 2 months, including cases of persons below the age of 18.

30. In addition, OMCT notes that the possibilities of appeal offered to children seem extremely limited, including the right to be assisted by a lawyer during police custody.

This situation appears all the more disturbing since it is likely that individuals will be held frequently incommunicado during police custody. And even if the law provides punishment for such acts, sanctions applied to those responsible would not be such as to discourage them.

Recommendations:

The Committee should urge the authorities to guarantee the 48 hours limit of police custody in cases where a child is arrested. Furthermore, they should examine as soon as possible, the possibility of reducing that period.

It should also urge the authorities to guarantee that police custody of children does not result in incommunicado detention and ensure that every child subjected to such a measure has immediate contact with his/her family and benefit of legal, or any other kind of appropriate assistance.

It should insist that the right of a minor to legal representation during police custody is a fundamental safeguard which must be provided by Algerian legislation and effectively put into practice. Moreover, if the child is destitute, a lawyer must be provided free of charge.

Medical examination during police custody

31. Algerian legislation does not provide for a medical examination during police custody. Such an examination is provided only at the end of the custody and if requested by the individual concerned [CRC/C/28/Add. 4 paragraph 57].

Since a medical examination operates as a protection of the detainee, application of the above-mentioned rule would be incompatible with the obligation of the State to protect the child from torture or other cruel, inhuman or degrading forms of treatment.

Moreover, the above-mentioned rule is in contradiction with Principles for the Protection of all Persons Subjected to any Kind of Detention or Imprisonment, which Principle 24 provides that the detained person "*shall be offered an appropriate medical examination as soon as possible after his/her arrival at the place of detention or imprisonment*"[9].

32. OMCT furthermore questions the effectiveness of the request submitted by a third person and reasons opposing to a medical examination during police custody or at the end of such custody without a request from the person concerned.

Recommendations:

The Committee should urge the authorities to ensure that any child placed in police custody is given a medical examination immediately upon arrival at the place of detention and be included in the

9 - *Se verra offrir un examen médical approprié dans un délai aussi bref que possible après son entrée dans le lieu de détention ou d'emprisonnement (Ensemble des principes pour la protection de toutes les personnes soumises à une forme quelconques de détention ou d'emprisonnement, Principe 24)*

appropriate file. The authorities should also be urged to ensure that a medical examination is not performed at the sole request of the person concerned.

Sanctions in case of arbitrary arrest or detention

33. According to the Penal Code, anyone responsible for an arrest or detention is liable to life imprisonment if the act is carried out *"either while wearing a uniform or a regulation badge or giving such an impression under the terms of article 246 of the Penal Code, or under a false name or on a false order of the public authority"*[10] [art. 292 of the Penal Code].

OMCT fears that this provision may only be applied to agents of the State or to officials acting without an official order.

34. It should be underlined that, according to art. 107 of the Penal Code, *"if an official or agent of the State has ordered or committed an arbitrary or harmful act against individual freedom or civil rights of one or more citizens, he is liable to imprisonment for a period of 5 to 10 years"*[11] [art. 107].

Nevertheless, despite the fact that arbitrary or illegal arrest and detention seem to be current practice, the report [CRC/C/28/ Add.4] makes no mention of these issues, nor of the number of children who are victims of such acts, and even less sanctions applied to those responsible or the number of agents guilty of such acts.

The report in question, moreover, contains no information concerning the provisions forbidding justification of such acts, on the grounds of an order from a superior.

35. OMCT notes with satisfaction that the Penal Code states that *"any prison warden or penitentiary official who keeps a prisoner without regular detention papers , or refuses to allow officials or authorised people to visit the prisoner nor presents registers, is guilty of arbitrary detention and thus punishable"*[12] [art. 110].

10 - *Execute soit avec port d'un uniforme ou d'un insigne reglementaire ou paraissant tels aux termes de l'article 246 du C.P., soit sous un faux nom ou sur un faux ordre de l'autorite publique [Code Penal, article 292]*

11 - *Lorsqu'un fonctionnaire ou un agent de l'Etat a ordonne ou commis un acte arbitraire ou nuisible a l'encontre des libertes individuelles ou des droits civils d'un ou plusieurs citoyens, il encourt une peine de prison allant de 5 a 10 ans [Code Penal, article 107]*

12 - *Tout agent de reeducation d'un etablissement penitentiaire ou d'un local affecte a la garde des detenus, qui a reçu un prisonnier sans des titres reguliers de detention ou a refuse sans justifier de la defense du magistrat instructeur, de presenter ce prisonnier aux autorites ou personnes habilitees a le visiter, ou a refuse de presenter des registres aux dites personnes habilitees, est coupable de detention arbitraire et puni [Code Penal, article 110]*

Nevertheless it regrets the absence of precision in the authorities' report concerning repression of such acts, in particular the number of persons prosecuted and punished for those acts perpetrated against children.

Validity of confessions obtained under torture

36. OMCT notes that according to the legislation in force, an accused minor may not be compelled to testify against himself or to admit his/her guilt [CRC/C/28/ Add.4 paragraph 119].

Nevertheless it deplores the absence of precision in the report concerning the validity of such forced testimony or confession. Nor does the report indicate whether the law forbids the use of such testimony or confession during a trial, or the penalties, if any, incurred by officials or agents of the State responsible.

Recommendations :

The Committee should ask for further clarifications on the issues of the responsibility of and sanctions applied to officials or agents of the State who made use of such testimonies or confessions.

Prosecution of those responsible for torture

37. The report [CRC/C/28/Add. 4] fails to mention the opportunities for appeal available to children who are victims of torture or cruel, inhuman or degrading forms of treatment, from an official or agent of the State.

38. It should also be recalled that Algeria is Party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which in article 12 obliges States Parties to carry out an investigation automatically.

However, the report [CRC/C/28/ Add. 4] does not state whether the Public Prosecutor's Office has to start prosecution

automatically (in accordance with article 12 of that Convention), or whether such a measure on the part of the Public Service depends, as it would seem, on a complaint or denunciation of the victim.

39. As has been recalled earlier, according to the legislation in force, even if persons under the age of 16 make a declaration before a court, their statement has only an informative value.

Although this text does not deny the right of children to be heard during any procedure which concerns them, it is obvious that the fact their declarations have no legal value is a grave restriction of the rights of defence, particularly when dealing with offences committed by or against a child.

This is all the more disturbing given that, according to the Penal Code, the child is considered criminally responsible from the age of 13 and may be subjected to either "*measures or protection or re-education or reduced penalties*"[13] [art. 49].

Recommendations:

The Committee should urge the authorities to revise this provision (the statement of a minor has only informative value) and make sure that the declarations of children above the age of 13 have the legal value they deserve considering the age of penal responsibility. The authorities should also ensure that, in the case of an offence against a child, statement of the victim is duly taken into account.

40. According to paragraph 121 of the report [CRC/C/28/Add 4], the department that deals with minors can order a child to be placed under supervised liberty either as a temporary measure or as a final arrangement, with the possibility of "*appealing against such a decision within 10 days of its announcement in court*"[14].

OMCT notes that the report does not specify the competent authority to hear such an appeal. Moreover, the delay of 10 days is an obstacle to the right of appeal because, according to the procedure applied, in certain cases, the person concerned or his/her family only learn of the court's decision several days after the court's decision. This is particularly relevant in the case of abandoned children.

The authorities should be urged to revise this provision and ensure that the dead-

13 - *Mesures de protection ou de rééducation, soit de peines atténuées [Code Pénal, article 49]*

14 - *Frappée d'appel dans les 10 jours de son prononcé au niveau de la cour [rapport CRC/C/28/Add.4 § 121]*

line is fixed so as to take effect from the moment when the accused, his/her family or counsel are aware of the decision.

Sanctions for those who torture children

41. According to paragraph 55 of the report [CRC/C/28/add. 4], an act of torture constitutes a capital offence punishable by the death penalty.

However, OMCT notes that the application of such a penalty is foreseen only for certain offences: those committed by those closest to the victim and resulting in death. This application does not appear to apply to agents or workers of the State.

42. In fact, according to the report of Algeria to the Committee Against Torture, art. 11 bis of the Penal Code foresees that "*the agent or worker who exercises or gives the order to use torture to obtain confessions is punished by an imprisonment of six months to three years*"[15] [CAT/C/25/Add. 8 paragraph 5].

OMCT believes that this punishment is in no way proportional to the gravity of the crime of torture. Aside from this, there seems to be nothing to suggest that, in the case of a death caused by torture, an agent or worker of the State responsible for this would be effectively liable to a punishment that corresponds to paragraph 55 of the report [CRC/C/28/add. 4].

43. It is important to note that the sanction foreseen in art. 11 bis of the Penal Code proves of a lesser gravity in comparison to general provision foreseen in art. 107 of the Penal Code.

Consequently, according to art. 107 "*when an agent or a worker of the State has ordered or committed an arbitrary or a harmful act against the individual liberties or civil rights of one or many citizens, he receives a punishment of prison time ranging from 5 to 10 years*".[16]

It is incomprehensible that a person committing an act of torture is subject to a punishment, ranging from six months to three years according to art. 11 bis of the Penal Code.

15 - *Le fonctionnaire ou agent qui exerce ou ordonne d'exercer la torture pour obtenir des aveux est puni d'un emprisonnement de six mois à trois ans [CAT/C/25/Add.8 § 5]*

16 - *Même que note 9*

This is compounded by information from diverse sources which show that torture and other cruel treatment, inhuman or degrading are generalised practices, including against minors, in the course of police custody or during provisional detention.

44. OMCT deplores the silence of authorities regarding these acts and also on the failure to supply information on the number of agents or workers who were sanctioned for acts of torture committed against children.

Recommendations :

The Committee should request further information from the authorities regarding the provision concerning aggravating circumstances and the punishments applicable to workers or agents of the State responsible for the torture of a child, as well as punishments applied to medical or paramedical personnel who have participated or supported such acts. It would also seem important that the Committee request the Algerian government to supply precise information concerning the number of agents or workers who have been sanctioned for acts of torture committed against children and the punishments inflicted for such acts.

It should urge the authorities to ensure that workers or agents of the State who have exercised or ordered acts of torture against a child, in the sense of the art. 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, will be severely punished, with regard to the age of the victim and taking into account the gravity of the crime of torture.

The Committee should also urge authorities to ensure that sanctions applied to agents or workers of the State are such as to discourage torture.

Sanctions of other offences against children

45. According to paragraph 23 of the report [CRC/C/28/Add. 4], paragraph 2 art. 261 of the Penal Code foresees 10 to 20 years' imprisonment for the mother, principal author or accomplice in the assassination or in the death of her newborn child.

However, the report makes no mention of the sanction applicable to a father in a like case.

46. Moreover, the report does not note sanctions foreseen in the case of selling children or their trade.

47. According to paragraph 173 of the report [CRC/C/28/Add. 4 paragraph 173], indecent assault on a minor aged less than 16 years is punishable with imprisonment of 5 to 10 years (of 10 to 20 years if the act is consumed or attempted with violence). The punishment of 5 to 10 years is equally applied to the ascendant author of indecent assault on a minor, even if the victim is 16 years old, but non-emancipated by marriage.

Moreover, "*rape perpetrated against a 16 year old minor is punishable with 10 to 20 years' imprisonment. If those guilty for this rape are the ascendants of the victim, if they are of the class of those persons whom have authority over him/her, if they are his/her instructors or his/her paid servants, if they are workers or a minister of a cult, or if the guilty one, whoever he/she is, was assisted in his/her crime by many persons, the punishment is imprisonment of 10 to 20 years in the case of an indecent assault without violence upon a minor of 16 years and penal servitude for life in the case of an indecent assault with violence upon a minor or in the case of a rape*"[17] [CRC/C/28/Add. 4 paragraph 174].

Despite the conformity of those dispositions with the aims of the Convention and of other international instruments, the investigation and sanction of such offences are in contravention with the principle of non-discrimination.

These dispositions imply an unjustified discrimination towards children from 16 to 18 years of age and married minors as well.

48. Furthermore, when discussing indecent assault, the report [CRC/C/28/ Add. 4 paragraph 173] makes a distinction between acts committed or attempted "with violence" and those committed or attempted "without violence".

However, there is no any information provided on the definition of "with violence" or "without violence", nor on the sense of how these terms are employed in Algerian jurisprudence.

17 *Le viol perpetre contre un mineur de 16 ans est puni de la reclusion de 10 à 20 ans. Si les coupables sont des ascendants de la victime, s'ils sont de la classe de ceux qui ont autorite sur elle, s'ils sont ses instituteurs ou ses serviteurs à gages, s'ils sont des fonctionnaires ou ministres d'un culte ou si le coupable quel qu'il soit a été aidé dans son crime par une ou plusieurs personnes, la peine est la reclusion à temps de 10 à 20 ans en cas d'attentat à la pudeur sans violence sur un mineur de 16 ans et de la reclusion perpétuelle en cas d'attentat à la pudeur avec violence sur un mineur ou en cas de viol [Rapport CRC/C/28/Add.4 § 174]*

Moreover, it seems probable, for lack of other information, that should such acts be committed, even with violence, against a person of more than 16 years, the person responsible would be liable to a less serious sanction.

49. OMCT notes with satisfaction that, regarding the penal law, castration is qualified as an act of torture and the perpetrator is liable to life imprisonment or death penalty if the castration caused death (art. 274 of the Penal Code).

However, OMCT is concerned over the imprecision of the report [CRC/C/28/Add. 4] regarding genital mutilation practised on the girl child.

50. Although the report affirms that slavery, servitude and forced or obligatory work are unknown in Algeria, OMCT deplores the absence of details in the report [CRC/C/28/Add. 4] regarding measures of surveillance, warning and repression of all forms of exploitation conforming to article 34, 35, and 36 of the Convention on the Rights of the Child.

51. With regard to the trade in human beings and to those exploiting prostitutes, OMCT is concerned that the authorities are satisfied by quoting some dispositions forbidding or punishing such offences, without being more precise about the rules applied in terms of regarding the severity of punishments and their aggravation with regard to the age of the victim.

Recommendations :

The Committee should request the authorities to give it further information concerning :

- measures adopted to forbid and punish offences such as sale or trade of children;
- criterion justifying the fact that the civil state of the victim is considered (probably) as a factor lighting responsibility of the ascendant author of an indecent assault against a minor of 16 years or more;
- punishments applied to a person committing an act of rape or indecent assault against a minor aged of 16 to 18 years ; what is also the punishment in the case of an indecent assault perpetrated by an ascendant against an minor emancipated by marriage;

The Committee should urge the authorities to guarantee that, in a general manner, sanctions proportional to the gravity of the offences are applied, particularly when such acts are against children and that the punishments are aggravated regarding the young age of the victim as considered in art. 1 of the Convention and that, independently of his/her civil status.

Discrimination regarding children

52. According to paragraph 14 of the report [CRC/C/28/Add. 4], the Constitution guarantees the right to non-discrimination.

Nevertheless, OMCT is concerned that Algerian legislation in force does not effectively ensure that right.

53. With regard to the right of the child to non-discrimination, according to paragraph 19 of the report [CRC/C/28/Add. 4], for ensuring the superior interest of the child, art. 93 of the Code of the Family states that "*the guardian of a will must be Muslim*"[18]. This presupposes that the child himself is Muslim.

No disposition seems to ensure the rights of non-Muslim children and nor does the report explain what happens when the child or the guardian of the will are not Muslims.

54. With regard to the child's right to freedom of expression, according to paragraph 40 of the report [CRC/C/28/Add . 4], public exercise of the liberty of opinion and expression and the liberty of intellectual, artistic and scientific creation of the minor is subjected to the authority of his/her guardian.

Thus, no available information allows us to judge if this disposition applies to all children under the age of 18 years (according to art. 1 of Convention), to those under 19 years (according to art. 40 at line 2 of the Civil Code), or uniquely to those without judgement, up to the age of 16 *(according to art. 43 of the Civil Code)*.

55. The report, furthermore, does not specify what measures have been established to guarantee these liberties in the framework of educational system, social groups, associations, etc.

18 - Le tuteur testamentaire doit être musulman [Code de la famille, article 93]

56. With regard to the child's right to freedom of association, paragraph 49 and 50 of the report [CRC/C/28/Add . 4] state that the law guarantees the right to association, including the right of forming unions and adhering them, as well as the liberty of reunion. Furthermore, according to art. 180 of the legislation of work in vigour, the age of admission to work is 16 [CRC/C/28/Add . 4 paragraph 7. e].

Nevertheless, the report does not indicate whether workers of less than 16 years of age may belong to a trade union, and if this is the case, whether they can be members of the management committee, commissions, etc.

Minorities or native groups

57. Children belonging to a minority or to a native group have been neglected by the report.

Though the International Secretariat respects the indivisible character of the Algerian Republic, it sincerely regrets that the government omitted any mention of the different native groups living on Algerian territory.

It seems important that Algeria adopts legislation guaranteeing protection of the civil and political rights of those groups and their economic, social and cultural rights.

58. Moreover, article 30 of Convention guarantees the cultural rights of children belonging to an ethnic, religious or linguistic minority or native groups.

Conclusions and recommendations

59. While welcoming the legislative and administrative efforts of Algeria to ensure implementation of the Convention on the Rights of the Child, OMCT regrets that the report [CRC/C728/Add.4.] is written in such general terms.

60. It deplores the lack of clarity and the absence of essential information concerning various subjects, especially the protection of children against torture, the rights of appeal available to a child victim of abuses including torture; the means

used to ensure the rehabilitation and reintegration of children victims of torture; the penal responsibility and penalties applied to children and their conditions of detention, the penalties applied to officials or agents of the State responsible for the torture of children and for other grave violations, consequences for children victims of violence and terrorism and also the effects of emergency legislation.

61. OMCT considers that the Algerian Republic should commit itself to take more appropriate measures in order to promote, protect and ensure effective implementation of the whole body of rights of the child without discrimination.

62. The authorities should commit themselves to adopt only one definition of the child conforming to art.1 of the Convention. This definition should at least take account of criterion foreseen by civil law relating to discernment for ensuring effective protection of children and remove all forms of discrimination towards them.

It seems important that the government include in the legislation a precise definition of torture conforming to art.1 of the Convention against torture considering the child's situation and his/her interest.

Moreover, they should ensure that the harshness of sentences applied to agents or workers of the State who perpetrated or ordered acts of torture against a minor take into account the gravity of the crime of torture and the age of the victim.

63. The authorities have to make particular efforts in order to guarantee the respect for the physical and psychological integrity of children under all circumstances, including states of emergency.

They should also commit to:

- adopt further measures appropriate in order to avoid or if need be, to sanction severely all forms of abuse against children including acts like arbitrary or illegal arrest and detention, torture and cruel, inhuman or degrading treatment or punishment commited by agents or workers of the State including those acting on the base of extended powers granted by an emergency state;

- pay special attention to the implementation of appropriate measures for

assistance and rehabilitation of children victims of violence under any forms like torture and cruel, inhuman or degrading treatment:

- prohibit in a clear and definitive way, the possibility of the use of the death penalty or life sentence against anybody aged less than 18 years and undertake to abolish death penalty as soon as possible;

- review the age limit of penal responsibility of children to conform to dispositions of the Convention (considering at least criterion already established by civil legislation regarding the age of judgement capacity);

- make sure that each child suspected, accused of or having committed an infraction of the law has full access to procedural rights including the right to a lawyer during police custody. The assistance of an advocate has to be free whenever necessary;

- ensure that police custody of children is reduced to a minimum while prohibiting detention incommunicado for whatever motives and guarantee that all children in police custody are given a medical evaluation at the beginning and the end of their incarceration;

- guarantee that the children's deprivation of liberty is a measure of last resort as brief as possible, without any prejudice to their rights including the right to contest the legality of this loss of liberty before a court or any other competent, independent and impartial authorities ;

- make sure that an appropriate training is given to policemen, magistrates, other government officials responsible for the administration of juvenile justice and generally to professionals dealing with children's matters or with implementations of the Convention.

(original version in French)
ANNEX 1

Art.87.bis 1. de l'Ordonnance no 95-11— Pour les actes visés à l'article 87 bis ci-dessus, la peine encourue est :

- la peine de mort, lorsque la peine prévue par la loi est la réclusion perpétuelle :

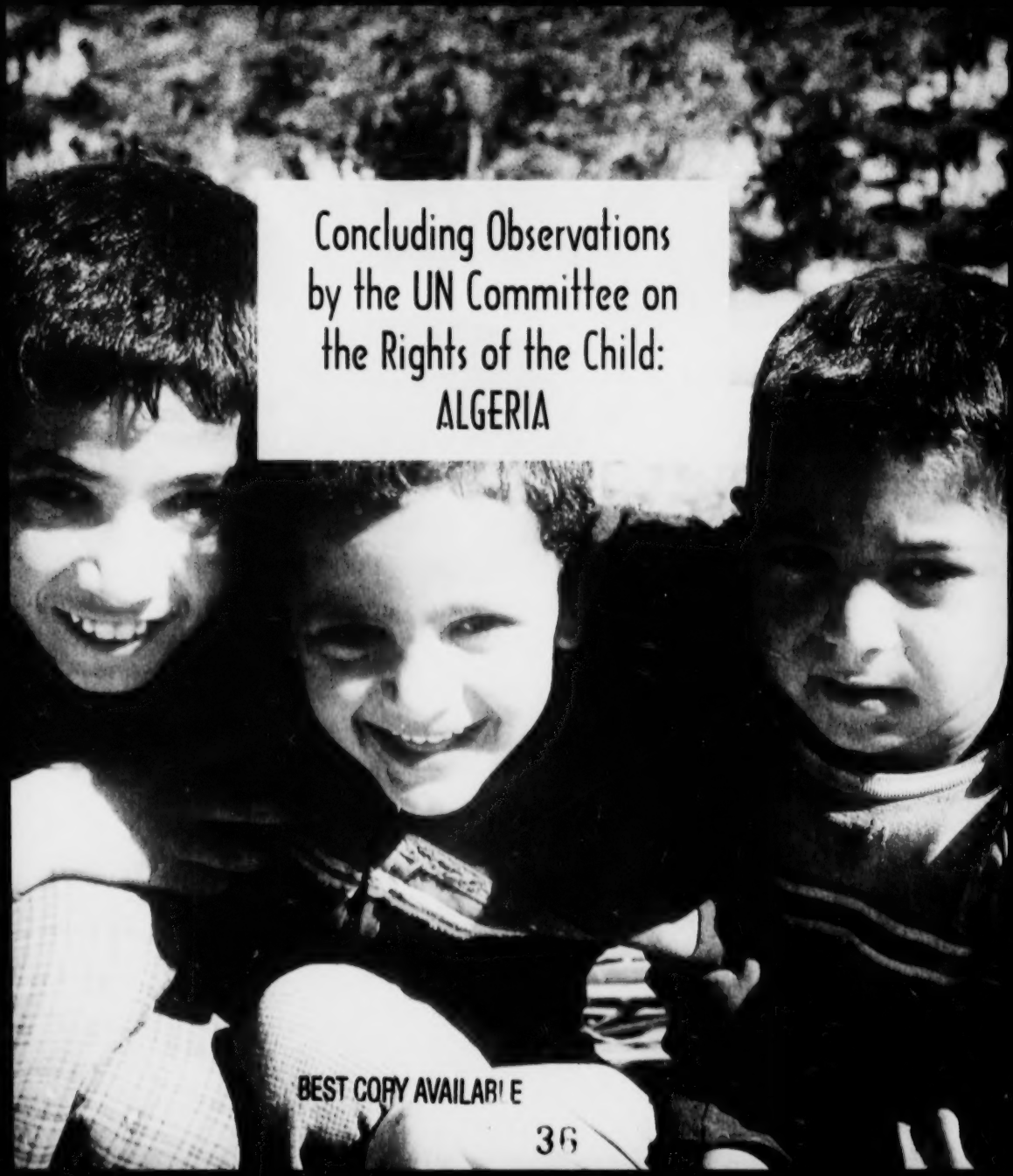
- la réclusion perpétuelle, lorsque la peine prévue par la loi est la réclusion à temps de dix (10) à vingt (20) ans ;

- la réclusion à temps de dix (10) à vingt (20) ans, lorsque la peine prévue par la loi est la réclusion à temps de cinq (5) à dix (10) ans ;

- portée au double, pour les peines autres que celles précitées.

ANNEX 2

Art.8. de l'Ordonnance no 95-12— Lorsque la personne visée à l'article premier de la présente ordonnance est mineure âgée de 16 à 18 ans et s'étant rendue coupable d'infractions qualifiées de subversion ou de terrorisme, la peine maximale encourue est la réclusion à temps de dix (10) ans.



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1. The Committee considered the initial report of Algeria [CRC/C/28/Add.4] at its 387th to 389th meetings [CRC/C/ SR.387 to 389] held on 29 and 30 May 1997 and adopted* the following concluding observations:

A. Introduction

2. The Committee expresses its appreciation to the State party for the submission of its initial report as well as for the written answers to its list of issues [CRC/C/Q/ALG. 1]. The Committee also expresses its satisfaction to the State party for engaging in an open and constructive dialogue with the Committee. It particularly wishes to express its satisfaction at the self-critical approach and it welcomes the positive response to the suggestions and recommendations made during the course of the discussion. However, the Committee regrets that, while the report provided comprehensive information on the national legislation relating to the promotion and protection of the rights of the child, it failed to provide information on factors and difficulties impeding the implementation of the Convention and the actual enjoyment by children of their rights.

B. Positive aspects

3. The Committee notes with appreciation that the Convention is fully incorporated into domestic law and that under article 132 of the Constitution international conventions are superior to domestic law. It also notes with appreciation that the provisions of the Convention are self-executing and may be invoked directly before the courts.

4. The Committee welcomes the initiatives taken by the Government, such as the setting up of a National Human Rights Observatory in 1992 and, more recently, of an Observatory of the Rights of the Mother and the Child. The Committee also notes with satisfaction the setting up in each wilaya of Directorates for social action, entrusted with the task, inter alia, of monitoring the implementation of policies adopted in respect of children. Furthermore, the Committee welcomes the adoption, following the World Summit for Children, of the National Plan of Action for the Survival, Protection and Development of Children.

5. The Committee also welcomes the introduction in January 1997, in co-operation with the United Nations

* *At the 398th meeting, held on 6 June 1997.*

Children's Fund (UNICEF), of a national communication programme in the sectors of health, education, social welfare, youth, sports, information and culture with the collaboration of information bodies such as the national agency for filmed news, television, radio and the press, with a view to ensuring, inter alia, wide dissemination of the principles and provisions of the Convention.

6. The Committee notes with appreciation that education is free at all levels, and that attendance is nearly universal. The Committee also notes with satisfaction that health services are free for all children and that a national programme of health care in schools has been developed.

7. The Committee notes with appreciation that, in accordance with article 32, paragraph 2 (a), of the Convention, article 15 of Act No. 90-11 of 21 April 1990 provides that the minimum age for employment is 16, with the only exception being apprenticeship contracts established in accordance with the law.

8. The Committee notes that, in accordance with article 39 of the Convention, steps have been taken to provide special services to assist children who are victims of the violence prevailing in the country, in order to promote physical and psychological recovery and social reintegration of those children.

C. Factors and difficulties impeding the implementation of the Convention

9. The Committee acknowledges that the severe economic and social difficulties facing the country have had a negative impact on the situation of children. In particular, it notes that the high level of external debt, the requirements of structural adjustment programmes, the high level of unemployment and poverty, and the existence of prejudicial traditional practices and customs are among the factors impeding the full enjoyment of their rights by children.

10. The Committee also notes that the continuing violence in Algeria since 1992 has had a negative impact on the implementation of certain provisions of the Convention.

D. Principal subjects of concern

11. The Committee notes that Algeria has made interpretative declarations on

articles 13, 14, paragraphs 1 and 2, and articles 16 and 17, of the Convention. In this respect, the Committee is of the opinion that the concerns expressed by the State party in its declarations are duly reflected in the relevant provisions of the Convention, and it expresses the view that retaining such declarations could lead to misunderstandings about the State party's commitment to implementing the rights covered by these articles.

12. The Committee notes with concern that inadequate measures have been taken by the State party to harmonize national legislation with the principles and provisions of the Convention. The Committee notes in particular that the Family Code currently in force in Algeria does not adequately address all the rights recognized in the Convention. The Committee also notes with concern that the legal provisions relating to the protection and promotion of the rights of the child are scattered throughout domestic laws, making it difficult to assess the actual legal framework in the field of children's rights.

13. The Committee, while noting with appreciation the existence of various government bodies responsible for the welfare of children at the national and local levels, regrets the inadequate coordination among these bodies in promoting and protecting the rights of the child and developing a comprehensive approach to the implementation of the Convention.

14. Although acknowledging that efforts have been made to promote awareness of the provisions of the Convention in schools, the Committee remains concerned that insufficient steps have been taken to date to promote awareness and understanding of the principles and provisions of the Convention among both children and adults. The Committee is particularly concerned that the training on children's rights provided to members of the police and security forces and other law enforcement officials, judicial personnel, teachers at all levels of education, social workers and medical personnel is insufficient and unsystematic.

15. The Committee is concerned that no adequate measures have been taken for the systematic collection of desegregated quantitative and qualitative data on the areas covered by the Convention in relation to all groups of children in order

to evaluate progress achieved and assess the impact of policies adopted with respect to children.

16. The Committee notes with concern that the principles of the best interests of the child, respect for the views of the child, and his or her right to participate in family, school and social life are not fully reflected in domestic legislation or implemented in practice. In this respect, the Committee regrets that the main thrust of the Convention, i.e. children as subjects of their own rights, is not adequately reflected in Algerian legislation. The Committee notes with concern that while articles 117 and 124 of the Family Code provide that children with discernment are consulted in matters concerning them, article 43 of the Civil Code does not recognize discernment for children under 16. Furthermore, the Committee expresses its concern at the lack of specific mechanisms to register and address complaints from children concerning violations of their rights under the law and the Convention.

17. The Committee expresses its concern at the existence of discriminatory attitudes towards girls and children born out of wedlock among some groups within the population.

18. With regard to the implementation of article 4 of the Convention, the Committee notes the lack of adequate legislative, administrative and other measures to ensure the full implementation of children's economic, social and cultural rights to the maximum extent of the State party's available resources, in particular for the most vulnerable children, including girls, children with disabilities, abandoned children, children born out of wedlock, children from single-parent families, children victims of abuse and/or exploitation, and nomadic and refugee children.

19. The Committee notes with concern the absence of specific and adequate regulations governing the registration of children, in accordance with article 7, paragraph 1, of the Convention, who are members of nomadic groups.

20. The Committee notes with deep concern that the law applicable in the case of rape of a minor excuses the perpetrator of the crime from penal prosecution if he is prepared to marry his victim.

Furthermore, in order to legitimize celebration of marriage which would otherwise contravene the law, article 7 of the Algerian Family Code allows the judge to lower the age for marriage if the victim is a minor.

21. The Committee is concerned at the lack of appropriate measures to combat and prevent ill-treatment and abuse within the family, and at the lack of information on this matter. The Committee is further concerned that disciplinary measures in schools often involve corporal punishment, although it is prohibited by law.

22. The Committee notes with regret the lack of information on the situation of refugee children in Algeria, especially with reference to their access to health care and education, as provided for by article 22, paragraph 1, of the Convention.

23. The Committee expresses regret at the lack of information on programmes of education and health-care services, in accordance with article 30 of the Convention, for nomadic children.

24. The Committee notes with concern the inadequacy of the mechanisms to monitor the implementation of Act No. 90-11 of 21 April 1990, regulating the employment of minors in the private and agricultural sectors.

25. While noting that the domestic legal texts governing the administration of juvenile justice take into account the principles and provisions of the Convention, the Committee regrets the lack of information on the implementation of these texts and on the actual enjoyment of their rights by children involved with the administration of juvenile justice.

26. The Committee notes with concern that, under article 249 of the Code of Criminal Procedure, children between 16 and 18 suspected of terrorist or subversive activities are tried in criminal court as adults. The Committee takes note of article 50 of the Criminal Code, which prohibits the sentencing of a minor to capital punishment or life imprisonment, the Committee regrets that it remains unclear whether the legal regime applicable to those minors with respect to trial proceedings and the execution of the sentence is that applicable to minors or to adults.

27. The Committee notes with concern the lack of preventive measures to address the effects of violence on children. It notes in particular that the number of orphans has recently risen as a direct consequence of violence, and that no specific measures seem to have been adopted to address the problem.

E. Suggestions and recommendations

28. The Committee suggests that the State party consider reviewing its interpretative declarations with a view to withdrawing them, in the spirit of the Vienna Declaration and Programme of Action.

29. The Committee recommends that the State party bring existing legislation into line with the principles and provisions of the Convention, and that it consider the possibility of enacting a comprehensive code for children.

30. The Committee recommends that further steps be taken by the State party to strengthen coordination between the various government bodies involved in children's rights, at both national and local levels, and that greater efforts be made to ensure closer cooperation with non-governmental organizations working in the field of human and children's rights.

31. The Committee recommends that greater efforts be made to ensure that the provisions of the Convention are widely known and understood by both adults and children. The Committee also recommends that systematic training and retraining programmes on the rights of the child be organized for professional groups working with and for children, such as judges, lawyers, magistrates, law enforcement personnel, army officials, teachers, school managers, health personnel, social workers, officials of central or local administrations and personnel of child-care institutions.

32. The Committee also recommends that the system of data collection be reviewed, with a view to incorporating all the areas covered by the Convention. Such a system should include all children, with specific emphasis on vulnerable children and children in especially difficult circumstances. Adequate disaggregated data should be gathered and analysed in order to assess progress achieved in the realization of children's rights and to help define policies to be adopted to better

implement the provisions of the Convention. With respect to the latter issue, the Committee recommends that further studies and follow-up surveys on vulnerable groups of children be initiated and that the State party consider requesting technical assistance from the United Nations Children's Fund (UNICEF).

33. The Committee recommends that further efforts be made to ensure that national laws conform fully with the Convention, having due regard to the best interests of the child, non-discrimination, the respect for the views of the child and his or her right to participate in family, school and social life, and the right of the child to life, survival and development. Awareness-raising campaigns should be launched, in particular among children, parents and professionals working with and for children, on the need for increased attention to these principles. In this regard, the Committee suggests setting up an independent mechanism such as an Ombudsperson for Children responsible for receiving and acting on complaints from children of violations of their rights under the law and the Convention.

34. In light of article 4 of the Convention, the Committee recommends that priority be given in budget allocations to the realization of the economic, social and cultural rights of children, with particular emphasis on the enjoyment of these rights by disadvantaged children.

35. The Committee recommends that special attention be given to the problems of ill-treatment and abuse, including sexual abuse, of children within the family and corporal punishment in schools, and stresses the need for information and education campaigns to prevent and combat the use of any form of physical or mental violence on children, in accordance with article 19 of the Convention. The Committee also suggests that comprehensive studies on these problems be initiated in order to understand them better and to facilitate the elaboration of policies and programmes, including rehabilitation programmes, to combat them effectively.

36. The Committee recommends that all necessary measures be adopted to ensure the immediate registration of the birth of nomadic children.

37. The Committee recommends that further steps be taken to ensure that nomadic children have access to education and health-care services through a system of specifically targeted education and health-care schemes which will allow these children to enjoy their right, in community with other members of their group, to their own culture, as stipulated in article 30 of the Convention.

38. The Committee recommends that further attention be paid to the full realization of the rights of refugee children under article 22 of the Convention.

39. The Committee further recommends that all necessary measures be adopted to monitor the implementation of Act No. 90-11 of 21 April 1990, in particular in the private and agricultural sectors of the economy, through strengthening existing inspection mechanisms.

40. With respect to the administration of juvenile justice, the Committee draws the attention of the State party to articles 37, 39 and 40 of the Convention, as well as to relevant United Nations standards such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. The Committee recommends in particular that in the implementation of special rules and regulations relating to terrorist and subversive activities, special attention be given to the implementation of articles 37 (a), (c) and (d), and 40, paragraph 3, of the Convention.

41. The Committee recommends that appropriate measures be adopted with a view to preventing to the maximum possible extent the negative impact of prevailing violence, through education and information campaigns in schools on peaceful cohabitation and peaceful resolution of conflicts. It also recommends that steps be taken to address the specific problem of the rising number of children orphaned by this violence.

42. Finally, the Committee recommends that, in light of article 44, paragraph 6, of the Convention, the initial report and written replies presented by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and the concluding observations adopted thereon

by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations.

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